

Assembly Bill No. 2390

CHAPTER 710

An act to amend Section 666.5 of, and to add Section 496d to, the Penal Code, relating to theft.

[Approved by Governor September 21, 1998. Filed
with Secretary of State September 22, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2390, House. Theft: vehicles: receipt of stolen property.

(1) Existing law provides that every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

This bill would specifically provide that every person who buys or receives any motor vehicle, trailer, special construction equipment, or any vessel under the circumstances described above shall be punished by the same terms of imprisonment plus a fine not exceeding \$10,000 where the state prison term is imposed or \$1,000 where a county jail term is imposed or by both the fine and imprisonment. The bill would provide that the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law makes it a felony punishable by imprisonment in the state prison for 2, 3, or 4 years if a defendant previously convicted of felony vehicle theft or felony grand theft involving an automobile is subsequently convicted of any of those offenses regardless of whether he or she actually served a prior prison term for those offenses.

This bill would specifically include felony grand theft of a motor vehicle, any trailer, any special construction equipment, or any vessel among the offenses covered by this prohibition. The bill would provide that the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels. Because the bill would expand the scope of an existing crime, it would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 496d is added to the Penal Code, to read:

496d. (a) Every person who buys or receives any motor vehicle, as defined in Section 415 of the Vehicle Code, any trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or any vessel, as defined in Section 21 of the Harbors and Navigation Code, that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any motor vehicle, trailer, special construction equipment, or vessel from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in the state prison for 16 months or two or three years or a fine of not more than ten thousand dollars (\$10,000), or both, or by imprisonment in a county jail not to exceed one year or a fine of not more than one thousand dollars (\$1,000), or both.

(b) For the purposes of this section, the terms “special construction equipment” and “vessel” are limited to motorized vehicles and vessels.

SEC. 2. Section 666.5 of the Penal Code is amended to read:

666.5. (a) Every person who, having been previously convicted of a felony violation of Section 10851 of the Vehicle Code, or felony grand theft involving an automobile, a motor vehicle, as defined in Section 415 of the Vehicle Code, any trailer, as defined in Section 630 of the Vehicle Code, any special construction equipment, as defined in Section 565 of the Vehicle Code, or any vessel, as defined in Section 21 of the Harbors and Navigation Code in violation of former subdivision (d) of Section 487, former subdivision (3) of Section 487, as that section read prior to being amended by Section 4 of Chapter 1125 of the Statutes of 1993, or Section 487h, or of a felony violation of Section 496d of the Penal Code regardless of whether or not the person actually served a prior prison term for those offenses, is subsequently convicted of any of these offenses shall be punished by imprisonment in the state prison for two, three, or four years, or a fine of ten thousand dollars (\$10,000), or both the fine and the imprisonment.

(b) For the purposes of this section, the terms “special construction equipment” and “vessel” are limited to motorized vehicles and vessels.

(c) The existence of any fact which would bring a person under subdivision (a) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

